

Message

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**From:** Spina, Thomas (USANYN) [Thomas.Spina@usdoj.gov]  
**Sent:** 3/16/2017 12:42:45 PM  
**To:** Nurkin, Gary [Nurkin.Gary@epa.gov]  
**CC:** Murphy, Kara [Murphy.Kara@epa.gov]; Myles.Flint@usdoj.gov; Katz, Adam (USANYN) [Adam.Katz@usdoj.gov]  
**Subject:** Re: MPM

**Ex. 5 DP**

On Mar 16, 2017, at 8:31 AM, Nurkin, Gary <Nurkin.Gary@epa.govmailto:Nurkin.Gary@epa.gov> wrote:

**Ex. 5 DP**

From: Spina, Thomas (USANYN) [mailto:Thomas.Spina@usdoj.gov]  
Sent: Wednesday, March 15, 2017 6:20 PM  
To: Nurkin, Gary <Nurkin.Gary@epa.govmailto:Nurkin.Gary@epa.gov>; Murphy, Kara <Murphy.Kara@epa.govmailto:Murphy.Kara@epa.gov>; Myles.Flint@usdoj.govmailto:Myles.Flint@usdoj.gov>; Katz, Adam (USANYN) <Adam.Katz@usdoj.govmailto:Adam.Katz@usdoj.gov>  
Subject: FW: MPM

**Ex. 5 DP**

From: Maureen F. Leary [mailto:Maureen.Leary@ag.ny.gov]  
Sent: Wednesday, March 15, 2017 12:52 PM  
To: 'Fein, Scott' <SFein@woh.commailto:SFein@woh.com>; 'Crisafulli, Scott w (DEC)' <scott.crisafulli@dec.ny.govmailto:scott.crisafulli@dec.ny.gov>; Jamie Woods <Jamie.Woods@ag.ny.govmailto:Jamie.Woods@ag.ny.gov>  
Cc: Spina, Thomas (USANYN) <TSpina@usa.doj.govmailto:TSpina@usa.doj.gov>  
Subject: RE: MPM

Scott: As outlined in my last email, we provided language that addresses nearly everything that the company is looking for. The stipulation's time frame ends in December 2008 and does not cover the period demanded in your email (ending in December 2012). We will not renegotiate that new date in a side letter and thereby amend the stipulation.

It sounds as if the stipulation is no longer going to be executed, but please confirm to Tom and me. Thank you. Maureen

From: Fein, Scott [mailto:SFein@woh.com]  
Sent: Wednesday, March 15, 2017 12:41 PM  
To: Maureen F. Leary <Maureen.Leary@ag.ny.govmailto:Maureen.Leary@ag.ny.gov>; 'Crisafulli, Scott w (DEC)' <scott.crisafulli@dec.ny.govmailto:scott.crisafulli@dec.ny.gov>; Jamie Woods <Jamie.Woods@ag.ny.govmailto:Jamie.Woods@ag.ny.gov>  
Cc: 'Spina, Thomas (USANYN)' <Thomas.Spina@usdoj.govmailto:Thomas.Spina@usdoj.gov>  
Subject: MPM

Maureen,

Thank you for your note. Please be advised that the Company is prepared at this time to commit to the resolution of the matter (and execute the stipulation) with the US Attorney's Office. If the Company receives similar assurances from the State as provided by the US Attorney, the Company is prepared to settle with the State. The Company cannot take the risk that the State will raise additional claims for alleged misuse of calibration mode based upon, (i) documents and data provided by the Company to the government during the investigation (pertaining to the operational aspects of the RKI from 2006 through 2012). If you think a carve out would safeguard your concerns please let us know. If you wish to identify Notices of Violation or other conduct raised in your earlier Power Point that should be carved out, we could consider this as well.

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